North Central Regional Transit District
Board Meeting
Friday, February 11, 2011

1. CALL TO ORDER:

A regular monthly meeting of the North Central Regional Transit District Board was called to order on the above date by Chair Rosemary Romero at 1:00 p.m. at the Los Alamos National Bank, 3674 Cerrillos Road, Santa Fé, New Mexico.

a. Pledge of Allegiance

b. Moment of Silence

c. Roll Call

Roll call indicated the presence of a quorum as follows:

Members Present:	**Board Member**	**Alternate Designee**
Los Alamos County	Councilor Michael Wismer	
Rio Arriba County	Commissioner Barney Trujillo	
Taos County	Commissioner Dan Barrone	Mr. Jacob Caldwell
Santa Fe County	Commissioner Robert Anaya	Ms. Penny Ellis-Green
Pojoaque Pueblo	Mr. Tim Vigil	
San Ildefonso Pueblo		
Ohkay Owingeh	Ms. Kateri Keevama	
Santa Clara Pueblo	Sheriff John Shije	Ms. Mary Lou Quintana
Tesuque Pueblo	Governor Charles Dorame	
City of Santa Fe	Councilor Rosemary Romero	Ms. Judith Amer
City of Española	Councilor Robert J. Seeds	
Members Absent:		
Los Alamos County		Ms. Anne Laurent
Rio Arriba County		Mr. Tomás Campos

Taos County		
Pojoaque Pueblo		Councilman Cameron Martínez
San Ildefonso Pueblo	Councilman Raymond Martínez	Ms. Sandra Maes
Ohkay Owingeh	1st Lt. Gov. Virgil Cata	
Santa Clara Pueblo		
Tesuque Pueblo		Vacant
City of Santa Fe		
City of Española		Councilor Helen Kane-Salazar

Staff Members Present
Ms. Josette Lucero, Executive Director
Mr. Jack Valencia, Transit Project Manager
Ms. Cynthia Halfar, Executive Assistant
Ms. Berlinda Ledoux, Financial Manager, interim
Ms. Kelly Muniz, Financial Manger
Ms. Linda Trujillo, Service Development Manager
Mr. Mitch Davenport, Jim West Facility Project Manager
Mr. Peter Dwyer, Counsel for NCRTD

Others Present
Mr. Pablo Sedillo, Senator Bingaman's Office
Mr. David Harris, NMDOT
Mr. Mike Kelly, Santa Fe Trails
Ms. Nancy Talley, Los Alamos County
Ms. Carol Raymond, Transit Advisory Board
Mr. John Whitbeck, Transit Advisory Board
Ms. Loretta Gurule
Mr. Abel Gurule
Mr. Sam Taylor

d. Introductions

Those present introduced themselves.

e. Approval of Agenda

Councilor Seeds moved to approve the agenda as presented. Commissioner Trujillo seconded the motion and it passed by unanimous voice vote with no abstentions.

f. Approval of Board Meeting Minutes, December 3, 2010

The Board discussed how abstaining from voting was to be considered. Mr. Dwyer said the Board did

not have a rule to interpret how abstentions should be considered and that it should have a rule.

Commissioner Robert Anaya arrived during this discussion.

Chair Romero moved to approve the December minutes. Ms. Keevama seconded the motion. However, Councilor Seeds, Commissioner Anaya, Commissioner Trujillo and Mr. Vigil all declared abstentions from the vote.

Chair Romero said a rule would be prepared for consideration at the next meeting.

Chair Romero moved to postpone the consideration of the minutes to the next meeting after consideration of a rule interpreting abstentions. Councilor Seeds seconded the motion and it passed by unanimous voice vote.

Commissioner Anaya introduced himself and described the district he covered in Santa Fé County.

g. Public Comments Regarding Transportation Items or Issues

Chair Romero clarified that this was a policy making board. As a policy making body the Board could not make decisions on personnel. She asked if there were any comments on personnel issues.

Mr. Dwyer explained that the Board did allow the public to speak but the Board's business was at the policy level and Ms. Lucero was responsible for personnel matters so he would prefer that the Board not entertain comments about personnel matters.

Ms. Penny Ellis-Green arrived at this time. Chair Romero introduced Ms. Judie Amer, Assistant City Attorney, who would become the alternate for the City of Santa Fé once her appointment was approved by City Council.

Four people raised their hands to give public comments.

Chair Romero gave each presenter two minutes to address the Board.

Ms. Carol Raymond said she was a member of the Santa Fé Transit Advisory Board. They had worked to help create this RTD and to get it certified as the first RTD in New Mexico so she was a long time supporter. Her concern was about the Board's finances and audits.

The most recent audit was for the period ending June 2008 and was approved March 5, 2010. There were several findings by the auditor. According to the by-laws, the next audit should have been completed by May 2010 and hopefully would have cleared those findings. It was not on the web site and some of the findings were significant.

Mr. John Whitbeck said he was also on the Transit Advisory Board and rode the public transit from Eldorado. He didn't understand a statement in the statewide transit report that reported on about 23-24

transit systems statewide. On page 19 it showed ratios of administrative cost to operating costs and it appeared that the NCRTD was above the state average at .9. He asked if the cost per trip for the NCRTD included administrative costs.

Ms. Lucero said they would address that.

Mr. Gurulé read from his letter that he wrote on behalf of Steven Gurulé who believed he was unfairly terminated. He quoted his accumulated hours. He said Steven was tossed aside and he approached a board member. It appeared that rider numbers on the Velarde route were falsified to keep the route open. He was not favored by the NCRTD because he had no children. Steven was intimidated by Ivan Guillen and Tommy and evidentially was belittled that he felt so low and now was fighting substance abuse.

Loretta Gurulé said she expected everyone to be treated with dignity and respect. The Board needed to know that management was not treating staff well. Steven Gurulé was a dedicated employee of Rio Arriba County. People needed to be held accountable. She worked with kids and took pride in it. She said none of the Board would like anyone in their family treated as Stephen was treated.

There was documentation by a consultant who questioned the route. Steven had good ideas but the Board only heard what management wanted them to hear.

Sam Taylor asked Board members to understand this could become a legal matter and asked the Board members to please read the letter (which was handed to each Board member).

Ms. Lucero said she would research the issues brought up by the public and address them.

2. ACTION ITEMS FOR APPROVAL/DISCUSSION:

A. Resolution 2011-01: Award of Bid for the Construction of the Jim West Transit Center

Mr. Davenport was present to address this matter.

Ms. Lucero reviewed the resolution to award a bid for the Jim West Transit Center. In the first round none of the respondents met the bid requirements.

The third round was issued on January 20th and they established an evaluation team for them composed of 7 members with 2 from the Board and 2 from the staff. The evaluation was based 50% on pricing and 50% on a weighted system.

Mr. Davenport explained the process that took place. All six bidders were responsive and he began the evaluation of them. There were some issues with subcontractors so he prepared a matrix to show how they responded overall.

There were several specialized activities such as polished concrete. Some bids did not respond to that activity and others explained how they could supervise special activities. Next were financial resources.

Any information they provided became a public record so they only asked for a letter from their bonding company and a statement from their bank. Most of them provided that information but some had a much higher bonding capacity.

Some Board members expressed confusion about the way quality was identified. Mr. Davenport indicated it included craftsmanship, attention to detail and what was needed to outperform others in construction. Some of the bidders just gave lip service to quality. Past performance spoke for itself, especially through references.

Cost considerations were simple to evaluate. The lowest price got the highest score.

Mr. Davenport didn't make a recommendation but passed along all the information. The most qualified contractor price was pretty high. He couldn't negotiate by changing the plans. The evaluation team moved down to next person and he said he would sign a contract that was lower than his bid at the level of the budget so that was the recommendation and the bidder in the resolution.

Mr. Dwyer explained that the RTD had funding for the construction through ARRA. The construction market was very tight now with lots of people looking for work so it had been highly contentious. He had been confronted by bidders and their legal counsel and the Board could end up in litigation over this. He was concerned with the extreme scrutiny required in this process based on quality. Mr. Davenport had to write many letters.

Ms. Lucero read the executive summary under packet tab A.

Councilor Seeds asked if there was no award amount in this resolution. The first one was $80,000 less than the others. He related the details of that process.

Chair Romero asked Mr. Davenport to share the information from those.

Ms. Lucero read from the matrix on bids and named the contractors. Lockwood was number one on their list for ranking at a price of $1.299 million. B-Z was $1.572 million, Anissa was $1,189 million, RVC was $1,305 million, R&M was $1.174 million and Stoven was $1.25 million. Anissa, Lockwood and Stoven were rated highest.

Chair Romero reminded new board members that the board made the decision to use this process as the one that gave the fairest evaluation on the bids.

Councilor Seeds asked what the low bid from the first round was.

Mr. Dwyer believed it was $1.1 million but was not sure. He said it had gone through 3 iterations in the hope that people would sharpen their pencils and get lower bids but it didn't work out that way.

The first time, they all eliminated each other for problems in the subcontractor legal requirements with a whole series of challenges.

In the second round they got responses again but when bringing it to the Board they were going to recommend the low bidder with some concerns and the Board said no. They wanted Mr. Dwyer to make the contract document tougher and make the evaluation qualitative rather than just the lowest bidder. He found the change in procurement code that allowed the award to be based on quality criteria. He described the waiver of claims after 30 days that would eliminate change orders down the line.

Ms. Talley was concerned about the lack of supporting documentation in the resolution. The resolution didn't give any numbers or percentages. She felt there should be some sort of dollar amount to which the Board was committing and a "not to exceed" amount.

Ms. Lucero said the specific guidance to staff last time was to have the evaluation team. She had the numbers and could share it.

Ms. Talley understood having an evaluation team and supported that but thought the Board should see the supporting documentation prior to the vote.

Chair Romero said that copies could be made now to evaluate it.

Commissioner Anaya asked what board members were on the evaluation team.

Chair Romero said she and Jacob Caldwell were on it.

Commissioner Anaya asked if the decision was unanimous in that recommendation.

Ms. Lucero said it was six out of seven. The architect voted no.

Commissioner Anaya was a little concerned and acknowledged this was the first time he had seen a construction agreement that was quality based. He said he always listened to legal counsel for review and didn't hear a voice of confidence but of concerns with litigation and the past issues. He asked Mr. Dwyer if he supported what was brought forward.

Mr. Dwyer said he fully supported the decision. He wasn't directly involved but had to respond to the challenges. He believed it was legal although not typical. Price was a big component and a big issue. But the goal was to bring back a hard and fast contract that was under budget. The top choice was eliminated based on price.

Commissioner Anaya understood what the Board did last time. The first was flawed. He asked if on the second round the bidder that was lowest fulfilled all criteria in the document.

Mr. Dwyer said the bidder did but the Board didn't think they would get what was needed to be done for the money available. So they had to change the bid specifications for what would be accomplished.

Chair Romero noted there lots of new members present but despite the long process there were some who had seen all the documents and the processes. She was hearing that people were concerned in moving forward. She cautioned that they had a strict time line to meet obligations with DOT and ARRA. She

didn't want to open up a new process but wanted members to feel comfortable with it. Her recommendation was that the Finance Committee look at the information and make the decision in March.

Mr. Dwyer said the bids were good for 30 days.

Mr. Davenport also cautioned that the agreement being made with the chosen bidder was not what he bid. He wouldn't have an obligation to lower it after 30 days.

Mr. Dwyer agreed. He could walk away from this deal. We got him to voluntarily reduce his bid but there was no assurance that it would remain on the table.

Governor Dorame commented that this scenario reminded him of what tribes had to do in working with BIA - it took a long time. He was ready to vote on this. Time was of the essence the Board was already cutting back on the project in this place.

Governor Dorame moved to approve the resolution. Chair Romero seconded the motion.

Councilor Seeds said he had not received his answer yet. He asked if this man was one in the original bid.

Mr. Davenport said he was not.

Councilor Seeds said he needed that list. He didn't agree with staff that they were all non-responsive. This whole process stunk. And he thought there was an attempt to eliminate the low bidder the first time. It had never felt right and he was concerned about possible litigation. He would not support this.

Chair Romero asked to go on to item B for the time being until copies were available.

B. Recommendation for the Rescinding or Amending of Resolution 2008-03: Lowering the Minimum Age to Ride a North Central Regional Transit District Bus Unattended by an Adult from 13 Years of Age to 10 Years of Age

Ms. Lucero explained this was to rescind the resolution from 2008 and to allow children 10 years or older and unattended to ride the buses. The old language would be dismissed in the resolution.

Mr. Guillen said the 2008 resolution required that those young riders have an identification badge and phone number of parents and the route they would be riding. This would eliminate the id badge requirement. It had been an impediment to those young riders. They had some students in Taos, Española and Pojoaque where they could make badges but the occasional rider like from Albuquerque going to see Grandma in Taos who could not get on the bus because they had no id badge. They wanted to make it simple for them. The Chili Line and Santa Fé Trails had lower ages and no id badge requirement and there was no lower age limit in Los Alamos.

Mr. Caldwell joined the bridge and Councilor Wismer had rejoined the bridge also.

Mr. Guillen said this amendment wouldn't decrease the safety of children riding the bus.

Ms. Talley saw no problem with this based on what other transit systems were doing.

Gov Dorame moved to approve the resolution. Councilor Seeds seconded the motion and it passed by unanimous voice vote.

The Board went back to the previous resolution to further consider the motion on the floor.

A. Resolution 2011-01 (continued)

Mr. Caldwell had nothing to add but asked for the recommendation to be read for him.

Mr. Davenport clarified that without altering any specifications in the project he asked Stoven to lower their bid to the budgeted amount and he agreed.

Commissioner Anaya asked if the base amount to do this was available in the budget.

Ms. Lucero agreed. There was $1.166 million to do the base bid.

Commissioner Anaya asked if they had the money for the alternates.

Mr. Davenport said there was a 3% contingency amount and the GRT was deducted out of that amount.

Commissioner Anaya asked that the motion include 3% and GRT with adjustments.

Mr. Davenport didn't recommend that change orders would have to come to the board.

Commissioner Anaya asked if the makers of the motion would cap the cost.

Chair Romero agreed but was a little concerned - there might be possibilities for value construction.

Commissioner Anaya proposed that the Additive Alternates only be approve by the Board on recommendation by staff. Governor Dorame agreed that was friendly.

Councilor Seeds said it was announced there would be no change orders and then it appeared that was not the case.

Mr. Davenport said any construction could have change orders. The first rejection had nothing to do with change orders or price. The first bid was not brought before the Board.

Mr. Dwyer said the Board voted "no" on the second bid responses and directed staff to firm up the contract and use other criteria. He added to it that they had to say within 30 days if there was a problem at inspection. He gave examples of what usually happened. There probably will be change orders.

Councilor Seeds said the staff recommendation the first time was what the Board voted on.

Mr. Dwyer clarified that at the December meeting there was an action item on the resolution and it would have been voted on. Staff had no vote. They also had an executive session on the possible litigation. Staff did discuss the information along with possible litigation.

The motion passed on a roll call vote with Los Alamos County, Santa Fé County, Tesuque Pueblo, City of Santa Fé and Taos County voting in the affirmative and with Española, Rio Arriba County, Pojoaque Pueblo, Ohkay Owingeh and Santa Clara Pueblo voting against.

Commissioner Anaya clarified that the amendment to the motion that was accepted capped the total cost not to be beyond the 3%. Chair Romero agreed.

Commissioner Anaya commented that there was a possibility the contractor would not accept that.

Commissioner Anaya moved that if the contractor did not accept the conditions on the bid (just passed) that the staff request a bid based on the requirements of the procurement code for minimum days based on lowest cost for existing specifications. Councilor Seeds seconded the motion.

Commissioner Anaya said the motion was made in light of the time line for spending the ARRA funds.

Chair Romero recalled the process they followed before was to start with Lockwood first and they declined. And the process so far would be to move to the third.

Commissioner Anaya said he understood the contractor already accepted the bid - the amendment just capped it. So his motion was to vacate those bids and go to straight bids (based on cost). He thought they should also look at those alternates to make sure there was "wiggle room" within the allowable budget.

Mr. Dwyer confirmed the Board had that authority.

Chair Romero added that they had done a lot of work and all of the bidders were already vetted so they could get to the low bid without having to re-advertise. All references had been called and they could work their way down and that would save time.

Commissioner Anaya said, with utmost respect, that he disagreed. All that would have to be looked at were the possible alternates. Chair Romero understood and agreed.

Mr. Dwyer asked that this vote be by roll call.

The motion failed by roll call vote with Española, Rio Arriba County, Santa Clara, Santa Fé County and Tesuque Pueblo voting in the affirmative and with Los Alamos County, Pojoaque Pueblo, Ohkay Owingeh, City of Santa Fé and Taos County voting against.

Mr. Caldwell excused himself from the meeting at this time.

3. DISCUSSION ITEMS:

C. Tribal Subcommittee Report

Mr. Valencia said the Tribal Subcommittee met on January 18. Mr. Vigil was interrupted from the meeting. The agenda was highlighted in the packet. He welcomed the new tribal members to the Board and invited them to attend the Tribal Subcommittee meetings which were scheduled on the third Tuesday of each month at Buffalo thunder at 1:30. The next meeting was scheduled for February 15.

On the issue of reimbursement for services provided, they received reimbursements from Tesuque and recognition from San Ildefonso. Ohkay Owingeh receives direct funding so no reimbursement was needed.

They also talked about budgets of all entities including the RPA and the 5311 monies. There was a variety of questions on the level of funding and they would discuss them at the next meeting.

Mr. Vigil thanked Mr. Valencia for making the report.

Chair Romero recommended thinking clearly about the integration of tribal interests with the whole RTD. The RTD wrote grants for the tribes and there were challenges involved. Mr. Valencia writes the grant applications but they needed to think clearly about how the tribes wanted to use staff for those grants. It seemed to be done differently for each tribe.

Mr. Vigil agreed to put it on the agenda.

Chair Romero thanked Mr. Vigil for allowing them to meet at Buffalo Thunder.

Governor Dorame appreciated staff's help in writing the grants since they didn't have the resources. But he added that the tribes also lobbied for those funds in Washington to get them through. Chair Romero agreed.

Governor Dorame excused himself to go back to the Roundhouse.

D. Finance/Regional Coordination & Consolidation Subcommittee Report

Chair Romero invited all members to attend these meetings. With Mr. Mortillaro leaving, she chaired the last subcommittee and Mr. Caldwell would take over the chair's duties for this Subcommittee.

Ms. Lucero referred to tab D for the minutes of their last meeting. This would be before the Board in the next couple of months - how the Board would oversee the budget. A consolidated budget was going through the subcommittee along with cost allocation. It would be brought before the subcommittee next Friday.

E. Executive Report for December 2010 and January 2011

Ms. Lucero noted the report was in the packet and she would answer any questions.

F. NCRTD Ridership Report for December 2010

Chair Romero noted they had seen an increase in ridership unlike some other systems. Santa Fé Trails was looking at a deficit and with possible reduced services and increased rates. The RTD system was free and supported tribes and the Rail Runner. More and more people would look at transit.

Ms. Lucero said Tab F had the report. It was being sent to members electronically monthly and here at the Board meetings on a quarterly basis. She briefly explained the report. It included reports for each route (22).

Commissioner Trujillo asked how the ridership was verified.

Ms. Linda Trujillo said these were acquired from the drivers' daily tally sheets. As the driver went through the route, and as each person got on, he put a hash mark for each one. And at end of the day she totaled the hash marks. They were not tallied when they get off the bus. Then she took each daily sheet and added all of them up for each day for the monthly totals.

Chair Romero said the Board's job was to grow this organization so the tallies were very important. As gas prices increased, more people would ride the blue bus.

G. Budget & Expenditure Report

Ms. Lucero referred to tab G and Ms. LeDoux presented the report and reviewed it with the Board. She explained how the expenses were compared with the budget.

Chair Romero explained that for audit purposes, the City of Santa Fé was the fiscal agent at the beginning and it was transitioned to the RTD thereafter. The second audit was done and would be considered on Friday. Then it would be brought to the Board.

Ms. LeDoux thought they were looking at some repeat findings but none that were new items. Most of them were covered with the new accounting system. Next Tuesday was the audit meeting at the office at 9:00 a.m.

There were no questions concerning her report.

4. MATTERS FROM THE BOARD

- **Conflict of Interest Disclosure Form**

Chair Romero reported they revised the form and policy. The disclosure form was required of all board members and needed to be returned as soon as possible.

- **Next Board Meeting: March 4, 2011 at Santa Fé County Commission Chambers**

The Board agreed to meet at the Santa Fé County Commission Chambers for the March Board meeting.

5. MISCELLANEOUS

Chair Romero said they sent a memo to Los Alamos County. The issues with Los Alamos County in the MOU had been resolved. She thanked them for that. The funds have been received.

Councilor Wismer added that Los Alamos had some additional issues and he would bring them up at the Finance Committee meeting.

Chair Romero thanked Senator Staff member, Pablo Sedillo, for coming to the meeting.

Chair Romero announced that Ms. Lucero has the possibility to retire later in the year. So they needed a succession plan to bring to the Board for review.

Commissioner Anaya requested that at next meeting staff provide a list of previous findings and what was unresolved.

Regarding administrative costs, Commissioner Anaya asked if they could get a presentation from Mr. Harris about what DOT was doing statewide and maybe some analysis on where the NCRTD fell with expenditures, etc.

Regarding the comments about Mr. Gurulé he asked for an executive session next time on what had transpired on that issue.

Commissioner Anaya said he respected all of the board members. He personally knew Councilor Jim West and missed him. He was a great guy.

He was disappointed that the only southern Santa Fé County route was stopped. He wanted to work closely with the RPA and this board to try to get that route back and to get consideration of a Highway 14 route also. He thanked the members for allowing him a little more time for those issues.

Chair Romero announced that the RPA would have a workshop next Tuesday, February 15 for the public on how services were provided to Santa Fé County. The transit workshop would include a

presentation by staff. It would be from 4-6 at the Santa Fé County Commission Chambers.

6. ADJOURNMENT

The meeting was adjourned at 3:35 p.m.

Approved by:

Rosemary Romero, Chair

Attest:

Michael Wismer, Secretary of the Board

Submitted by:

Carl Boaz, Stenographer